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WINSTON & STRAWN LLP PATENT DEPARTMENT 1700 K STREET, N.W. WASHINGTON, DC 20006			EXAMINER KARIKARI, KWASI	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/764,287	Applicant(s) ELLIS ET AL.	
	Examiner KWASI KARIKARI	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-2 and 7-9 cancelled is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 and 10-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/22/2008 has been entered.

Response to Arguments

2. Applicant's arguments, filed on 08/22/2008 with respect to claims 3-6 and 10-30 in the remarks, have been considered but are moot in view of the new ground(s).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language "a processor readable medium" raises a question as to whether claim 30 is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application

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producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

The examiner suggests the usage of one of the following acceptable languages in computer-processing related claims such as;

- a. A computer readable medium encoded with “a computer program”, “software”, “computer executable instructions” or “instructions” capable of being executed by a computer...

OR

- b. A computer readable medium embodied with a computer program capable of being executed by a computer...

Appropriate correction(s) are required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28 and 29 are rejected under U.S.C. 102(e) as being anticipated by Kivela et al. (U.S 6,272,359), (hereinafter Kivela)

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Regarding claim 28 and 29, Kivela disclose a jewelry individual network

component/system comprising:

an integrated item of jewelry; a first component configured to provide a plurality of functions (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

a second component (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8) configured to wirelessly communicate with another modular personal network components within a modular personal network ("MPN") using a message uniquely tagged for the MPN (= infrared data communication, see col. 4, lines 24-47); and

a fourth component configured to adapt to an addition or removal of any modular personal network component of the MPN from the MPN to continue to provide the plurality of functions. (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g.,

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module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 10, 14-27 and 30 are rejected under U.S.C. 103(a) as being unpatentable over Kivela in view of Inasaka (US 20020094845), (hereinafter Inasaka).

Regarding claims 3, 10 and 30, Kivela discloses jewelry individual network component/method/processor comprising:

a wireless transceiver configured to send data to and receive data from other individual network components in a modular personal network (= communication between devices or a localized communication system, see col. 2, lines 5-29 and col. 3, line 32- col. 4, line 23, col. 15, line 20- col. 16, line 23 ; and Figs. 1a, 4a and 8; whereby

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the communication network formed among the wireless devices worn in the first and second part of the radio telephone is being associated with the “modular personal network”),

circuitry to provide a specific function for the modular personal network (= communication path between devices, see Figs. 1a, 4a and 8),

a mount configured to allow a user to wear the jewelry individual network component, and an integrated item of jewelry selected from an earring, an item of body jewelry, a pendant, a necklace, a ring, a brooch, a pin, a cufflink, a tie tack, a tuxedo stud, a barrette, a hairpin, a hair accessory, a belt buckle, a bracelet, and an ankle bracelet (= first part can be kept on a belt, and the second part on the wrist, see col. 2, lines 22-29 and col. 4, lines 11-23),

whereby the jewelry individual network component is configured to operate as an individual network component in the modular personal network so as to send or receive data from one or more other individual network components of the modular personal network that are also carried by the user (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91 provides different user function see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8), and

wherein the modular personal network has characteristics, which are imparted onto network components operable in the network including the jewelry network component, the characteristics comprising each component providing one or more functions to the network, a new network component can be added to the modular

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personal network at any time to increase the capabilities of a resulting system, a single network component can be removed resulting in an operating modular personal network that can perform without the single network component and its corresponding one or more functions (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8),and individual components operating in the modular personal network are configured to receive from or transmit data to one or more other components in the modular personal network and whereby the jewelry individual network component operates with another individual network component, each having said characteristics of the modular personal network and the removal one results in two separate operating modular personal networks where each can be added to the operating modular personal network of the other at any time to increase the capabilities of the resulting system (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Although Kivela mention the when the second part of the radio telephone is close to the user, e.g., on the wrist, the telephone can be answered by second part; and an

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infrared data transfer (see col. 2, lines 22-39 and col. 3, line 49- col. 4, line 43); Kivela explicitly fails to mention that “the modular personal network is about the size as a user’s personal space”

However, Inasaka, which is an analogous art teach the “modular personal network is about the size as a user’s personal space” (= device will plug into video output; or device can use low power wireless protocol such as Bluetooth to receive video signal, see [0017]; whereby the Bluetooth communication between device and the phone is being associated with the “personal space”).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Inasaka into the system of Kivela for the benefit of achieving a system provide improved graphical display quality by wirelessly interfacing displays with wireless devices (see Inasaka; [0017-18 and 0023]).

Regarding claims 14 and 21, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein the new network component is added to implement a new function for the user in the modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claims 15 and 22, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein new network components automatically join the

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modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claims 16 and 23, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein the modular personal network automatically continues to operate with any remaining network components when the single network component is removed (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claims 17 and 24, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein the jewelry individual network component in the modular personal network automatically configures to adapt to an addition or removal of a another modular personal network component (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91

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is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claims 18 and 25, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein individual network component of a modular personal network automatically join the modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8); but fails to disclose “the user’s personal space”.

However, Inasaka, which is an analogous art teach the “modular personal network is about the size as a user’s personal space” (= device will plug into video output; or device can use low power wireless protocol such as Bluetooth to receive video signal, see [0017]; whereby the Bluetooth communication between device and the phone is being associated with the “personal space”).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Inasaka into the system of Kivela for the benefit of achieving a system provide improved graphical display quality by wirelessly interfacing displays with wireless devices (see Inasaka; [0017-18 and 0023]).

Regarding claims 19 and 26, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein each individual network component store

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identification information of other individual network components in its current modular personal network (see col. 6, lines 36-63)

Regarding claims 20 and 27, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein each individual network component stores network identification information for the current modular personal network (see col. 6, lines 36-63).

6. Claims 4-5 and 11-12 are rejected under U.S.C. 103(a) as being unpatentable over Kivela in view of Inasaka and further in view of Anderson (US 6,594,370), (hereinafter Anderson).

Regarding claims 4 and 11, as recited in claims 3 and 10, Kivela discloses all the claimed limitations (see col. 11, line 50- col. 12, line 49); but the combination of Kivela and Inasaka fails specifically to teach that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear.

However, Anderson, which is an analogous art, teaches that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear (= remote processing unit communicates with earpiece, see col. 4, lines 20-35).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela and Inasaka for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less

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conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 5 and 12, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein circuitry comprises demodulator for processing the received signals and a demodulator for converting the processed signals; and the wireless transceiver comprises wireless transmitter for sending the converted signal to another device worn by the user (see col. 3, line 32- col. 4 line 65); but the combination of Kivela and Inasaka fails to teach the modular component is an earring.

However, Anderson teaches that the remote processing unit communicates with earpiece, see col. 4, lines 20-35).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela and Inasaka for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

7. Claims 6 and 13 are rejected under U.S.C. 103(a) as being unpatentable over Kivela in view of Inasaka and further in view of Willard (U.S. 4,803,487), (hereinafter Willard).

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Regarding claims 6 and 13, as recited in claims 3 and 10, Kivela discloses the claimed limitations concerning the transceiver and circuitry components (= communication links between devices, see col. 3, line 32- col. 4, line 23; and Figs. 1a & 4a); but the combination of Kivela and Inasaka fails to teach that the component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger.

However, Willard teaches wherein the jewelry individual network component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger (see col. 3, lines 51-61).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela and Inasaka for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit for display of received data message (see Willard col. 2, lines 14-26).

CONCLUSION

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892 for cited references and the prior art made of record.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as

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well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. SEE MPEP 2141.02 [R-5] VI. PRIOR ART MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY FROM THE CLAIMS: A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (9am - 7pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/KWASI KARIKARI/
Examiner, Art Unit 2617

/Charles N. Appiah/
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